

DEFENDANTS

*** DAILY TRANSCRIPT ***

1 APPEARANCES:

2 FOR THE PLAINTIFF: MR. MATHEW SCHUTZER
3 MS. REGAN RUSH
4 MS. DEENA FOX
5 MS. HALEY VAN EREM
6 MR. PATRICK HOLKINS
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FOR THE DEFENDANT: MR. JAMES W. SHELSON
MR. REUBEN V. ANDERSON
MR. WILLIAM T. SILER, JR.

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THE COURT: Thank you all for bearing with me. I know, as you all are in public practice, most of you have been, you know we're doing our public service duty when you get these calls and you go speak to these groups. And it's like I've got to get elected again. But I appreciate your patience.

Thank you for returning to the stand. I will -- we may go a little bit longer than 5:30 today if we need to catch up, but I wanted that opportunity to be available to you.

MR. SCHUTZER: Thank you, Your Honor.

THE COURT: All right.

DANIEL BYRNE,
having first been duly sworn, testified as follows:

DIRECT EXAMINATION (Continuing)

1 BY MR. SCHUTZER:

2 Q Welcome back, Mr. Byrne. Before we took our break, we were
3 talking about discharge planning. Let's get back into that.
4 What is appropriate discharge planning?

5 A Appropriate discharge planning would be where the treatment
6 team on the inpatient service and at least a representative
7 from the community service would get together and, again,
8 exchange the relevant clinical information, consider any new
9 information that they might have, and then collaboratively
10 develop a plan that would identify the services and the
11 supports that are needed for the person to be able to be safely
12 discharged, return to the community and be able to resume their
13 lives.

14 Q What kind of discharge planning did you see in the people
15 you reviewed in Mississippi?

16 A In many cases, the discharge planning consisted of a phone
17 call to the community mental health center and an appointment
18 to date and time were arranged. And there, of course, were
19 some medication orders. But that was about it.

20 Q I'd like to talk about the discharge planning that person
21 89 experienced. Can we turn to page 127 of your report,
22 please. Can you tell us a little bit about person 89.

23 A Yes. This say a 46-year-old Caucasian male, unmarried, who
24 had had some work history, and he had also had a substance
25 problem, and he had experienced multiple hospitalizations, both

1 in private hospitals, crisis stabilization units and in the
2 Mississippi state system.

3 Q Focusing on the state hospitals, how many times had he been
4 to Mississippi State Hospital?

5 A Three times.

6 Q Let's get the dates of those. Was the first one
7 September 23rd, 2016 through October 24, 2016?

8 A Yes.

9 Q Was the second one June 12th, 2017 to June 22nd, 2017?

10 A Yes.

11 Q Was the third one August 21st, 2017 to August 30th, 2017?

12 A Yes.

13 Q What, if anything, does having three hospital admissions in
14 less than a year suggest to you about the discharge planning
15 that happened for each of these admissions?

16 A I think the planning, you know, was underpowered and, you
17 know, unfortunate, because I don't think that there was the
18 adequate thinking and planning that needed to go into the plan
19 to ensure that there was some level of success when this
20 gentleman returned to the community.

21 Q What services would have been appropriate for him to
22 receive to ensure there was some level of success when he
23 returned to the community?

24 A In this situation, I mean, I recommended PACT services. I
25 think, again, given this gentleman's history, and also, you

1 know, with -- he had a co-occurring substance use problem, so
2 given the number of hospitalizations, decompensations, problems
3 that he had, he would have required the most intensive service,
4 which would have been PACT.

5 Q Did the state -- did Mississippi State Hospital ever refer
6 him to a PACT team?

7 A I don't believe so, no.

8 Q Did Mississippi State Hospital ever identify PACT as
9 something that he would be appropriate for?

10 A They did not.

11 Q Let's take a look -- did he receive PACT services?

12 A He did not.

13 Q What happened when he was discharged from -- well, I'm
14 going to do it this way. Would you turn in your tab -- in your
15 binder, please, to the tab labeled PX-1097. What is this
16 document?

17 A This is a Mississippi State Hospital diagnostic discharge
18 summary.

19 Q Which of his three Mississippi State Hospital admissions is
20 this the discharge summary for?

21 A I believe this is the first.

22 MR. SCHUTZER: I move PX-1097 into evidence.

23 THE COURT: Any objection from the State?

24 MR. SHELSON: No, Your Honor.

25 Okay. PX-1097 will be received into evidence.

1 (Exhibit PX-1097 marked)

2 BY MR. SCHUTZER:

3 Q Will you turn to page 5 of this document, please? Looking
4 towards the bottom of the page, the paragraph -- paragraph 8,
5 after-care plans?

6 Yes.

7 Q What was the after-care plan for person 89's first
8 discharge?

9 A Do you want me to read it?

10 Q Yes, please.

11 A The after-care plan was: "Follow up with the mental health
12 center, follow up with primary care provider within one month
13 of discharge for hypertension, and follow-up X-ray of left arm
14 (follow-up left radial head fracture.) The social worker
15 arranged an after-care appointment for this patient at Region 9
16 Mental Health Center on November 4, 2016 at 1 p.m."

17 Q Could you turn to the tab labeled PX-1096 in your binder,
18 please. What is this document?

19 A This is a Mississippi State Hospital diagnostic discharge
20 summary.

21 Q Is this for his second Mississippi State Hospital
22 discharge?

23 A It is.

24 Q Would you turn, please, to page 4. What is the after-care
25 plan for this second discharge?

1 A The after-care plans: "Follow up with mental health
2 center. The social worker arranged an after-care appointment
3 for this patient at Hinds Behavioral Health on July 10, 2017,
4 at 1:30 p.m. with Dr. Lundy. The nurse practitioner instructed
5 the patient to follow up with primary care provider in one
6 month for blood pressure management. Take" -- I believe that
7 should be: "Clonidine as directed. Must be wean off Clonidine
8 to avoid rebound hypertension."

9 Q Would you turn in the binder, please, to PX-1095. I think
10 I neglected to do this.

11 MR. SCHUTZER: I move PX-1096 into evidence.

12 THE COURT: Any objection from the State?

13 MR. SHELSON: No, sir.

14 THE COURT: All right. PX-1096 will be received into
15 evidence.

16 (Exhibit PX-1096 marked)

17 BY MR. SCHUTZER:

18 Q Are you on PX-1095, Mr. Byrne?

19 A Yes.

20 Q What is this?

21 A This is a Mississippi State Hospital diagnostic discharge
22 summary.

23 Q Is this from person 89's third trip to Mississippi State
24 Hospital?

25 A That's correct.

1 Q Would you turn, please, to page 4. What is the after-care
2 plan for this discharge?

3 A "After-care plans: Follow up with the mental health
4 center. Take medications as ordered. Do not stop or alter
5 them. Report any thoughts of suicide or homicide immediately.
6 The social worker arranged an after-care appointment at Region
7 15 Mental Health Center for this patient on September 11, 2017
8 at 10 a.m. He was also instructed to follow up with his
9 primary care provider in one week or sooner for continued
10 management of hypertension and yearly wellness exam."

11 MR. SCHUTZER: Can we get all three of them up
12 together.

13 BY MR. SCHUTZER:

14 Q Looking at all three of these after-care plans, are they
15 appropriate for person 89?

16 A Not clinically appropriate.

17 Q Why is that?

18 A Well, they are not robust. They don't have -- again, they
19 don't have the shared thinking and the engagement of the
20 treatment team on the inpatient side, as well as representation
21 from the community-based provider in terms of what the
22 collective thinking was in terms of what's best for this person
23 and what services and supports need to be considered and in
24 place so that he has a more successful opportunity to, upon
25 discharge, live in the community and be successful there.

1 MR. SCHUTZER: If could I have a moment to confer with
2 counsel.

3 THE COURT: Yes, you may.

4 (Short Pause)

5 BY MR. SCHUTZER:

6 Q Just a few more questions for you, Mr. Byrne. To wrap up,
7 I'd like to go back to PDX-9, the chart. It's on your screen.
8 Focusing on the column of 87 percent of people at serious risk,
9 why were they at serious risk?

10 A They were at serious risk because the content and quality
11 of the outpatient services was not meeting their needs.

12 Q What change to Mississippi's mental health services would
13 change that 87 percent number?

14 A Well, there are a number of things. I think to start with,
15 we would need to have discharge planning, as I've described it
16 here today, and we would also need a much more robust array of
17 community-based services that are calibrated to the needs of
18 the clients and are able to, you know, in terms of intensity
19 and flexibility, that they would need to be sensitive to what
20 the person's specific needs at a specific point in time would
21 be.

22 MR. SCHUTZER: I pass the witness, Your Honor.

23 THE COURT: Let me ask, did the United States intend
24 to admit this into evidence?

25 MR. SCHUTZER: That's for identification.

1 THE COURT: All right. Tell me what this document is.
2 Not even for ID, huh?

3 MR. SCHUTZER: That one, the calendar, Your Honor,
4 that's PDX-10.

5 THE COURT: PDX-10 for ID only?

6 MR. SCHUTZER: I've been reminded I neglected to move
7 PX-1095 into evidence.

8 THE COURT: Any objection to 1095 from the State?

9 MR. SHELSON: No, sir.

10 THE COURT: All right.

11 (Exhibit PX-1095 marked)

12 THE COURT: Any objection to the ID only for PDX-10?

13 MR. SHELSON: No, sir.

14 MR. SCHUTZER: Thank you, Your Honor.

15 (Exhibit PDX-10 for identification marked)

16 MR. SHELSON: May I proceed, Your Honor?

17 THE COURT: Yes, you may.

18 CROSS-EXAMINATION

19 BY MR. SHELSON:

20 Q Good afternoon, Mr. Byrne.

21 A Good afternoon, sir.

22 Q Mr. Byrne, are you a psychologist?

23 A I am not.

24 Q Are you a psychiatrist?

25 A I am not.

1 Q Can you prescribe medications?

2 A No.

3 Q Let me visit with you about your time at St. Elizabeth's
4 Hospital. May I refer to that as SEH?

5 A Sure.

6 Q Okay. You were there at two different periods of time. Is
7 that correct?

8 A Yes.

9 Q And the first time you were at SEH was from 1994 to 2001?

10 A The first time began in 1983, sir.

11 Q Okay. What were the periods of time you were at SEH?

12 A I was at the hospital from 1983 to I think about 1986, and
13 then I was there from 1994 through 2000.

14 Q Did you also work at SEH from June 2009 through
15 September 2009?

16 A Yes.

17 Q When you worked at SEH, what were the admissions criteria?

18 A Well, the admissions criteria were if someone was
19 clinically adjudicated to require inpatient care, they were
20 referred and received.

21 Q Was there a standard for being clinically adjudicated to
22 receive state hospital level of care?

23 A Yes.

24 Q What was that standard?

25 A If the person was in immediate danger to themselves or

1 others would be the most prominent.

2 Q If an individual met the admissions criteria and was
3 admitted to SEH, was SEH the most integrated setting
4 appropriate for that individual at the time of admission?

5 A Yes.

6 Q When you worked at SEH, was it treating any patients who
7 would have avoided admission if they had received appropriate
8 community-based services before they were admitted?

9 A In some cases, yes.

10 Q Why does that happen in some cases at state hospitals?

11 A It happens because there may be either some interruptions
12 or misunderstands about what level of service and what services
13 might be needed to maintain the person in the community.

14 Q All right. Do you recall testifying earlier about the
15 Office of Outpatient Services at SEH?

16 A Yes.

17 Q And remind us what that office did.

18 A The office was basically the clearinghouse, sort of the
19 quality control for all discharges.

20 Q And you personally worked in that office?

21 A I did.

22 Q And did you review discharge applications to make sure
23 individuals were appropriately to be discharged from the
24 hospital to live in the community?

25 A Yes.

1 Q What criteria did you use to determine whether an
2 individual was appropriate to be discharged to the community?

3 A Well, there would be a chart review, so I would be able to
4 see if the person, you know, in terms of had the symptomatology
5 decreased as their functionality improved. You know, were they
6 stable on the ward? And then I would be looking at -- in terms
7 of the discharge planning, I would be looking at the services
8 that had been identified for the person that they would receive
9 in the community and make sure that everything was in place.

10 Q Did you ever determine that an individual is not
11 appropriate for discharge to the community?

12 A Yes.

13 Q And was it based on the review of the factor that you just
14 mentioned?

15 A Yes.

16 Q And so can you give us an example of someone you found not
17 appropriate for discharge at the time?

18 A One example that comes to mind is someone that had been an
19 incident on the ward, and they ended up -- I believe that they
20 struck another patient and ended up in seclusion.

21 Q Can you give us an example of a patient you reviewed where,
22 based on their symptomatology at the time, you found they were
23 not appropriate for discharge?

24 A I can't recall a specific case for that, sir.

25 Q Okay. Did you work for the Disability Rights Center of New

1 Hampshire for a period of time?

2 A Yes.

3 Q When did you work for the Disability Rights Center?

4 A I was -- I worked there in late 2012 to the beginning of
5 2013.

6 Q Were you involved in any lawsuits filed by the Disability
7 Rights Center?

8 A I was.

9 Q Was one of those the *Disability Right Center versus New*
10 *Hampshire*?

11 A Yes.

12 Q What was your role in that lawsuit?

13 A My role was to review clinical records, interview patients,
14 family members, and get a sense of what the content and quality
15 of the inpatient services were, as well as the community-based
16 services.

17 Q Was that role similar to your role in this case?

18 A There are some similarities.

19 Q All right. Was the person named Judith Boardman an expert
20 in that case?

21 A Yes.

22 Q Is Judith Boardman one and the same person as Judith
23 Baldwin, who is an expert in this case?

24 A Yes.

25 Q You mentioned a Green Door during your testimony this

1 morning. Do you recall that?

2 A Yes.

3 Q What is Green Door?

4 A Green Door has been -- it used to be a private mental
5 health provider in the District of Columbia.

6 Q And you said used to be. Why used to be?

7 A They were taken over by a larger entity.

8 Q At some point in time, did Green Door in the District of
9 Columbia have a clubhouse?

10 A They did.

11 Q What is a clubhouse?

12 A A clubhouse is a place where people with mental health
13 disabilities and diagnoses can come every day. They can learn
14 new skills. There are specific activities. There's also some
15 job readiness training that was offered, and there were also
16 some supports in terms of psychoeducational education in terms
17 of medication adherence, side effects. So it was -- there were
18 educational, occupational and recreational components to their
19 program.

20 Q Did the clubhouse close at some point because of lack of
21 funding?

22 A The funding -- the whole mechanism for house services
23 were -- being paid for changed, and the clubhouse closed,
24 because that service, at that point in time, was not recognized
25 as a reimbursable service.

1 Q It was not recognized at the time at a reimbursable service
2 under Medicaid?

3 A Yes, because the system went into a Medicaid rehab option,
4 and the services changed from grant-based services to fee for
5 services -- fee for service.

6 Q You worked directly on PACT in the District of Columbia?

7 A At Green Door and Capital Community, yes.

8 Q Have you worked directly on PACT team anywhere else outside
9 the District of Columbia?

10 A No.

11 Q Do the mental disorders that PACT is indicated for include
12 schizophrenia?

13 A I missed the first couple of words.

14 Q I'm sorry. Do the mental disorders that PACT is indicated
15 for include schizophrenia?

16 A Yes.

17 Q Does it include major depression?

18 A Yes.

19 Q Does it include bipolar diagnoses?

20 A Yes.

21 Q Does it include schizoaffective disorders?

22 A Yes.

23 Q Do you agree that some people are resistant to PACT
24 services?

25 A Initially, yes.

1 Q Let's talk about some of the reasons why people may
2 initially be resistant to PACT. Is one of the reason that some
3 people don't like medications?

4 A Yes.

5 Q Is one of the reasons that they feel they've been
6 mistreated by the mental health system?

7 A Yes.

8 Q Is one of the reasons that they may also have substance
9 abuse issues?

10 A Yes.

11 Q Is one of the reason that's they also may have legal
12 issues?

13 A That could be a factor, yes.

14 Q And is another reason that some people just don't want PACT
15 in their homes?

16 A I don't have direct familiarity with that.

17 Q Is another one of the reasons that they may be so psychotic
18 or disorganized that they don't understand PACT may benefit
19 them?

20 A Yes.

21 Q All right. Of the 35 individuals you reviewed in
22 Mississippi, are two of those individuals deceased?

23 A Yes.

24 Q Are those individuals person 70 and person 84? I think if
25 you look in your notebook, PX-400.

1 A Can you repeat the numbers, please.

2 Q Sure. First one is person 70.

3 A Yes.

4 Q And the second one is person 84.

5 A That's correct.

6 Q Did DOJ staff accompany you on each of your interviews in
7 Mississippi?

8 A Yes, with the exception of the telephone interviews.

9 Q Okay. So the in-person interviews, DOJ staff accompanied
10 you?

11 A Yes.

12 Q And who are the individuals from DHS -- who are the
13 individuals from DOJ who accompanied you on your interviews in
14 Mississippi?

15 A They included Bobby Molson, Regan Rush, Mary Bohan, Ryan
16 King, Linda Garcia, Gary -- I'm forgetting his last name, and
17 there may be another person I'm not recalling.

18 Q Ryan King?

19 A Ryan King, yes.

20 Q Okay. At times, did the DOJ staff ask questions during
21 your interviews of individuals in Mississippi?

22 A That happened a few times.

23 Q All right. So when we exclude the two individuals who are
24 deceased, that obviously leaves 33 living individuals you
25 interviewed?

1 A Yes, sir.

2 Q All right. And of those 33 individuals, at the time of
3 your interview, three of them were at Mississippi State
4 Hospital, and one was in the Pearl River County Jail?

5 A Yes.

6 Q So you exclude those four, and that's 29 of 33 who are
7 living in the community?

8 A Yes.

9 Q Okay. And 29 of 33 is 87 percent. I'll represent to you
10 that it is. But 29 of 33 were living in the community at the
11 time you interviewed them?

12 A Yes.

13 Q All right. I want to ask you a question about person 63.
14 Of course, you're free to look at your report. Person 63
15 starts on page 40 of 144.

16 A Yes.

17 Q All right. Do you recall your testimony this morning when
18 you were talking about discharge planning, did you say that one
19 of the things that can help with discharge planning is for
20 someone who was treating the person in the community to visit
21 the state hospital and coordinate that person's care?

22 A Yes.

23 Q All right. Do you -- do you recall where person 63 lives?

24 MR. SHELSON: May I approach the witness, Your Honor.

25 THE COURT: Yes, you may.

1 BY MR. SHELSON:

2 Q I'm going to show you an unredacted copy of page 40 of your
3 report. And where does it say this person lives.

4 A I'm not seeing.

5 Q Here.

6 A He lives in Lorman, Mississippi.

7 Q Do you happen to recall what county Lorman is in?

8 A I don't offhand.

9 Q It's okay if you don't. I'll represent to you that Lorman
10 is in Jefferson County, Mississippi, which would be here, and
11 Mississippi State Hospital, you agree, is in Hinds County?

12 A I believe, yes.

13 Q Okay. So if that's roughly an hour and a half drive each
14 way, is that a practical reality that would face somebody who
15 treated Mr. -- excuse me, I shouldn't say his name -- who
16 treated person 63 in Lorman for that person to travel to
17 Mississippi State Hospital and back?

18 A Well, it's a distance, and you know, sometimes, you know,
19 in other places they -- people would make the trip. It can
20 also be done either by telephone or by Skype. The important
21 thing here is that there is an exchange of information between
22 the treating teams so that we get the best information and the
23 best planning.

24 Q Do you remember -- this is Exhibit PX-1096. Do you
25 remember discussing this exhibit earlier about person 89?

1 A Yes.

2 Q It's in your notebook.

3 A Yes.

4 Q I want to direct your attention down here to the
5 highlighted part. Does it say -- that sentence read, "The
6 social worker arranged an after-care appointment for this
7 patient at Hinds Behavioral Health on July 10th, 2017, at
8 1:30 p.m., with Dr. Lundy"?

9 A That's correct.

10 Q Does Hinds Behavioral Health have a PACT team?

11 A I believe they do.

12 Q When the person -- when this person, person 89, was sent to
13 Hinds County Behavioral Health, could there have been -- would
14 there have been an internal referral to PACT?

15 A Possibly.

16 Q So just because the hospital doesn't make a direct referral
17 to PACT doesn't mean it cannot happen once that person is in
18 the community. Is that correct?

19 A Hypothetically, yes.

20 Q And then still on person 89, and this is Exhibit PX-95,
21 which is also in your binder, this was the discharge subsequent
22 to the one we just looked at. And the highlighted sentence
23 reads, "The social worker arranged an after-care appointment at
24 Region 15 Mental Health Center for this patient." And it lists
25 the date and time. Do you know whether Region 15 has a PACT

1 team?

2 A I believe they do.

3 Q Again, could Region 15 have indicated a PACT for this
4 individual?

5 A Internally, possibly, yes.

6 Q I want to shift gears and talk about state hospitals
7 briefly. In your experience, are there any instances where an
8 individual is appropriate for admission to a state hospital?

9 A Oh, yes.

10 Q In your experience, when is an individual appropriate for
11 admission to a state hospital?

12 A If they are in immediate danger to themselves or others,
13 and if other measures like, you know, crisis counseling, crisis
14 services, if those have not been successful in terms of
15 remediating the situation, and again, and the person continues
16 to be either a present danger to themselves or others, you
17 know, hospitalization can be indicated.

18 Q What is the continuum of care for mental health?

19 A Well, it would start with -- on the far left, it would
20 start with, you know, the traditional outpatient services
21 and -- which would be low intensity services, if that's what
22 was indicated, and it would extend all the way to, on the
23 right, to hospitalization.

24 Q So from left to right, left would be the lowest intensity
25 of services, and the right would be the highest level?

1 A Which would be hospitalization, yes.

2 Q Are inpatient beds in state hospitals part of the continuum
3 of care?

4 A Yes.

5 Q And are state hospitals part of the continuum of care
6 because they are the highest level of care?

7 A That's correct.

8 Q And does highest level of care mean that state hospitals
9 are staffed 24 hours a day and are equipped to manage people
10 who need that intensity of service?

11 A Yes.

12 Q Based on your experience, at least generally speaking, what
13 services are available in state hospitals?

14 A Generally, state hospitals would offer assessment services,
15 diagnostic services, medication services. There could be
16 rehabilitation services. There could be psychotherapy or
17 counseling individually. There could be groups. There could
18 be other rehab services. Oftentimes, there's a medical
19 component, recreational therapy, a benefits office so that if
20 someone, you know, needs Medicaid or is having problems, say,
21 with a disability application, that all of those issues could
22 be managed by the hospital.

23 Q Were you able to determine one way or the other whether the
24 state hospitals in Mississippi offer those services?

25 A I believe they do.

1 Q In your opinion, when is an individual not appropriate for
2 community-based services?

3 A It would be a rare situation, small number of people, but
4 if someone, you know, has behavior, either self-injurious
5 behavior or injurious behavior towards others that cannot be
6 managed or remediated, that would be a situation where just --
7 and a safety issue that they would not be appropriate to be in
8 the community.

9 Q In your opinion, when would an individual not benefit from
10 community-based services? Is it the same answer you just gave?

11 A Pretty much, yes.

12 Q Anything you have to add to it?

13 A There could be -- there could be situations where someone
14 could have either a medical disorder that's having a negative
15 effect on their psychiatric status, or there could be -- you
16 know, they could have behavior such as would make it, you know,
17 not a safe situation.

18 Q I want to ask you next, sir, about some of the individuals
19 you reviewed, and I'm going start with person 55, who, again,
20 your report is PX-401, and person 55 starts on page 12 of 144.

21 A Yes, sir.

22 Q Did you make any determination regarding whether the
23 treatment person 55 received at Mississippi State Hospital met
24 the applicable standard of care?

25 A I think that it did.

1 Q And did you make a different standard of care assessment
2 for any of the other 34 individuals you reviewed?

3 A No.

4 Q In 1996, was person 55 admitted to the forensic unit at
5 Mississippi State Hospital after allegedly killing his brother?

6 A He was.

7 Q Did you find person 55 was not opposed to living in the
8 community?

9 A He was not opposed to living in the community.

10 Q Pardon?

11 A He was not opposed to living in the community.

12 Q Was person 55 living in the community when you interviewed
13 him?

14 A Yes.

15 Q All right. Would you turn to person 56, please. And
16 does -- person 56 starts on page 16 of your report. Is that
17 correct?

18 A Yes.

19 Q All right. When you interviewed person 56, was she a
20 danger to self or others?

21 A When I interviewed her, no.

22 Q When you did interview her, was she living in the community
23 with her husband and two children?

24 A Yes.

25 Q I want to go next to person 57. Starts on page 19 of 144

1 of your report. Did person 57's symptomatology at the time of
2 her last state hospitalization before you interviewed her
3 include that she was not medication-adherent and had violated
4 outpatient commitment requirements?

5 A That's correct.

6 Q And not to ask an obvious question, but what does it mean
7 to violate outpatient commitment requirements?

8 A She did not adhere to the conditions of the order.

9 Q Meaning that she was out of the state hospital subject to
10 certain conditions?

11 A That's correct.

12 Q All right. When you interviewed person 57, was she stable?

13 A Yes.

14 Q Was she a danger to self or others?

15 A Not when I interviewed her.

16 Q I'm going to direct your attention to page 20 of 144 of
17 your report, and we're still on person 57. And I'm going to
18 direct your attention to the second paragraph that's starts
19 here. Did you write that the identification and acquisition of
20 appropriate housing with the correct behavioral health and
21 environmental supports for person 57 has been a challenge for
22 MSH -- MHS is Mississippi State Hospital, for the record. But
23 anyway, did you write that sentence?

24 A Yes.

25 Q Why had that been a challenge for MSH?

1 A It had been a challenge because she wanted to reside in her
2 own place, and she wanted to live independently. And the
3 clinical team -- the clinical decision was that she required a
4 level of supervision.

5 Q What type of housing did you recommend for person 57?

6 A I recommended that this person receive supported housing.

7 Q And is that -- is that supported congregate housing?

8 A It could be.

9 Q Was it in the case of person 57?

10 A That was -- in that case, it was congregate.

11 Q Wasn't that also the type of housing that the staff at MSH
12 was recommending for person 57?

13 A I think that there might be a difference in terms, that
14 supported housing, as I recommended, has different clinical
15 supports than I believe what the hospital was suggesting.

16 Q Did you recommend that person 57 would at least initially
17 have 24/7 supervision at the housing you recommended for her?

18 A I don't think it would -- the supported housing, I don't
19 think that that would have 24/7 supervision. They would have
20 some staff presence, and there would be some supportive
21 services. I don't believe it would go 24 hours a day.

22 MR. SHELSON: May I approach the witness, Your Honor?

23 THE COURT: You may.

24 BY MR. SHELSON:

25 Q I'm going to show you that, Mr. Byrne, because I did not

1 redact this individual's name, but if you would just read to
2 yourself, starting there, and tell me when you're done and I'll
3 flip the page.

4 A (Witness complied with request.)

5 Q And then page 70 line 1 through 6.

6 A (Witness complied with request.)

7 Q So in your deposition, did you find that -- did you testify
8 that person 57 would initially need 24/7 supervision?

9 A Yes.

10 Q All right, sir. If we could move on to person 59; which
11 starts on page 26 of 144 of your report. My first question
12 about person 59 is, at the time you interviewed him, was he
13 living with his wife in CHOICE housing?

14 A Yes.

15 Q And CHOICE housing is what?

16 A It's a program that's funded by the Department of Mental
17 Health in the state of Mississippi. It offers housing
18 subsidies and rental supports.

19 Q And was person 59 also receiving PACT services when you
20 interviewed him?

21 A He was.

22 Q And, sir, this is on page 16 of your report, if you'd like
23 to look, but did you write in your report -- that's page 16.

24 It's page 27 of 144. Did you find that person 59 was very
25 pleased with the comprehensive approach to coordinated

1 community care he was receiving?

2 A With the PACT services, yes.

3 Q Would you turn to person 60, who begins on page 30 of 144
4 of your report. Did the person's symptomatology at the time of
5 his last state hospitalization include that he refused to take
6 his medications, his psychotic symptoms were re-presenting, and
7 a history of being assaultive and self-destructive behavior?

8 A Yes.

9 Q Did that -- well, did Mr. -- did person 60's history of
10 self-destructive behavior including -- include setting himself
11 on fire at least once?

12 A I believe he attempted to.

13 Q Did it include self-amputating his arm by cutting it off
14 with a saw?

15 A Unfortunately, yes.

16 Q When you interviewed person 60, was he a danger to self or
17 others?

18 A No.

19 Q I'd like to turn next, sir, to person 62, who begins on
20 page 37 of 144 of your report. Did person 62's symptomatology
21 at the time of her last state hospitalization before you
22 interviewed her include that she was not medication-adherent
23 and had threatened her daughter with physical harm?

24 A That's correct.

25 Q And when you interviewed her, was she a danger to self or

1 others?

2 A No.

3 Q Did -- well, strike that. Was person 62 receiving PACT
4 when you interviewed her?

5 A She was.

6 Q Did you recommend senior supported housing for person 62?

7 A Yes.

8 Q What is senior supported housing?

9 A This was -- this supported housing would be with seniors,
10 and there would be some level of services that would be
11 available at the apartment complex or at the facility.

12 Q And the senior was simply because of person 62's age at the
13 time?

14 A Right.

15 Q And do you recall approximately how old person 62 is?

16 A I believe she was 74, if I'm not mistaken.

17 Q Could we move next, Mr. Byrne, to person 64? And he starts
18 on page 44 of 144 of your report.

19 A Yes.

20 Q Did person 64 have a history of hospitalizations in states
21 other than Mississippi?

22 A Yes.

23 Q And again, I'm on page 44 of 144 of your report, and I'm in
24 the first paragraph under the caption, "Review of
25 hospitalizations." Was person 64 hospitalized as an inpatient

1 at Baptist Behavioral in Florida in 2004?

2 A Yes.

3 Q Was person 64 admitted several times at West Florida
4 Pavilion and West Florida Community Care?

5 A Yes.

6 Q Did person 64 spend approximately three and a half years as
7 an inpatient at Chattahoochee State Hospital in Florida before
8 being discharged in 2011?

9 A Yes, that's correct.

10 Q Has person 64 also been hospitalized in Tennessee three
11 times?

12 A Yes.

13 Q Has he been hospitalized in Louisiana?

14 A Yes.

15 Q Has he been hospitalized in a Veterans Administration home
16 in Virginia?

17 A Yes.

18 Q Do those -- strike that. Did those admissions range
19 between six months and two years?

20 A They did.

21 Q Did you review the records from person 64's admissions to
22 hospitals in states other than Mississippi?

23 A No.

24 Q Would you turn next, sir, to person 65, who begins on page
25 47 of 144 of your report. Did person 65's symptomatology at

1 the time of his last state hospitalization before you
2 interviewed him include an accusation of trying to rape another
3 resident at a person care home?

4 A Yes.

5 Q When you interviewed person 65, was he a danger to self or
6 others?

7 A No.

8 Q What -- did you recommend permanent supported housing for
9 person 65?

10 A Yes.

11 Q Did person 65 indicate to you that he preferred to live in
12 a personal care home?

13 A Initially, yes. He had some concerns that he wouldn't be
14 able to prepare his own meals.

15 Q Well, to the extent person 65 did prefer to live in a
16 personal care home, should that choice be honored?

17 A Yes, it should be honored. I think that the other parts of
18 that would be, I think that he needed to be also informed on
19 some potentially -- some other options, like supported housing,
20 which, you know, could offer a different array of services than
21 the personal care home where he currently resided.

22 Q The next person I'd like to talk about is person 67, and
23 that person starts on page 55 of 144 of your report. When you
24 interviewed person 67, was she living in a nursing facility in
25 Natchez, Mississippi?

1 A Yes.

2 Q Was person 67 in that facility because she had developed
3 some medical issues and dementia?

4 A Yes.

5 Q And did you agree with that level of care?

6 A Yes.

7 Q Is the housing recommendation you made for person 67 to
8 stay where she was at the time you interviewed her?

9 A Yes.

10 Q If we could go next to person 68, who begins on page 58 of
11 144 of your report. Did person 68's symptomatology at the time
12 of his last hospitalization before you interviewed him include
13 that he had threatened staff at the local community mental
14 health services?

15 A Yes.

16 Q And when you interviewed person 76, was he cooperative?

17 A Yes.

18 Q And was he a danger to self or others?

19 A No.

20 Q Could we turn, please, to person 69, who begins on page 62
21 of 144 of your report. When you interviewed -- strike that.
22 Did person 69's symptomatology at the time of her last state
23 hospitalization before you interviewed her include suicidal
24 feelings, decompensation and some evidence that she has been
25 substance dependent?

1 A That's correct.

2 Q When you interviewed person 69, was she pleasant,
3 cooperative and stable?

4 A Yes.

5 Q Was she a danger to self or others?

6 A No.

7 Q Could we turn to person 71, who begins on page 70 of 144 of
8 your report. Did person 71's symptomatology at the time of his
9 last state hospitalization before you interviewed him include
10 organic psychosis, some manic behavior and physically
11 aggressive behavior towards female residents at a personal care
12 home and some incidents with his family?

13 A Yes.

14 Q When you interviewed person 71, was he a danger to self or
15 others?

16 A No.

17 Q Was person 71 living in a personal care home in
18 Plantersville, Mississippi when you interviewed him?

19 A Yes.

20 Q And, sir, this is on page 71, 144 of your report, and it's
21 the first paragraph under the caption "Review of community
22 services." Did you write that person 71 has adjusted to living
23 at his personal care home and has a good relationship with the
24 manager, as do other members of the family?

25 A Yes.

1 Q And you did not make some other housing recommendation for
2 person 71, did you?

3 A I indicated I recommended supported housing, sir.

4 Q Did you? Okay. But you did that even though he appeared
5 to be doing well in the personal care home?

6 A Yes.

7 Q All right. Can we turn to person 73, please, who starts on
8 page 77 of 144 of your report. Did person 73's symptomatology
9 at the time of his last state hospitalization before you
10 interviewed him include that he had physically assaulted his
11 mother, was experiencing -- was experiencing anxiety, sleep
12 disturbance, substance use and was not adhering to his
13 psychiatric medication?

14 A That's correct.

15 Q Was person 73 a danger to self or others when you
16 interviewed him?

17 A No.

18 Q Would you turn next, please, to person 77, which starts on
19 page 88 of 144 of your report. The only question -- the only
20 thing I want to ask you about with respect to person 77 is, did
21 you recommend income supports for her to remain in the
22 community?

23 A Yes.

24 Q What are income supports?

25 A Income supports could be, until someone gets their

1 benefits, there could either be like a bridge loan or a small
2 grant or, you know, a loan so that someone, when leaving the
3 hospital, would be able to afford, you know, to be able to live
4 in a place, a safe place in the community while their benefits
5 application was being considered.

6 Q In your experience, what is the amount of those loans or
7 grants?

8 A Oh, I don't know now, sir.

9 Q Okay. Can we turn next to person 78, who starts on page 91
10 of 144 of your report. Do the records you reviewed indicate
11 that community support services were recommended for person 78,
12 but the services were refused?

13 A Yes.

14 Q Did you find that the identification and acquisition of
15 appropriate housing with the necessary behavioral health and
16 environmental supports for person 78 had been difficult and
17 challenging?

18 A Yes.

19 Q And why had that been difficult and challenging?

20 A In part because he had a co-occurring substance use problem
21 which got in the way of, you know, his better functioning.

22 Q If we could turn to person 79, who starts on page 95 of 144
23 of your report. And what I'm going to ask you about is
24 actually on the -- on page 96 of 144 of your report, but on --
25 and it's the second paragraph from the bottom, if you want to

1 look.

2 Anyway, here's the question. On May 31, 2018, was person
3 79 discharged from MSH to a four-bedroom supervised living home
4 operated by the Region 8 committees?

5 A Yeah. I'm very pleased to tell you yes.

6 Q Pardon?

7 A I said I'm very pleased to tell you yes.

8 Q Thank you. And so my next question, I think I already know
9 the answer, but did you find that was appropriate housing for
10 person 79?

11 A I haven't seen it, but from what I understand, I believe it
12 would be appropriate.

13 Q If you could, sir, turn to person 80, who starts on page 98
14 of 144 of your report. Did person 80's symptomatology at the
15 time of his last state hospitalization before you interviewed
16 him include that he was suicidal, and there was evidence of a
17 mood disturbance, substance use and some medical issues?

18 A Yes.

19 Q When you interviewed person 80, was he a danger to self or
20 others?

21 A No.

22 Q Did person 80 have multiple prior hospitalizations in
23 Louisiana and Texas?

24 A Yes.

25 Q Was person 80 discharged from South Mississippi State

1 Hospital to a personal care home on July 24, 2017?

2 A Yes.

3 Q Was that housing acceptable to person 80?

4 A It was.

5 Q Do the records indicate that person 80 has an IQ of 75?

6 A Yes.

7 Q And what does an IQ of 75 indicate?

8 A It would indicate that he would be on the lower level of
9 intelligence as it's measured by that battery of tests.

10 Q If that IQ test was accurate, does it indicate that person
11 90's capacity to work with his environment and move forward
12 with his agenda is impaired?

13 A It would be impaired. And again, with the right supports,
14 he could certainly possibly do a good job.

15 Q Could we turn to person 82, starts on page 105 of 144 of
16 your report. Did -- well, is person 82 a registered sex
17 offender?

18 A He is.

19 Q Did person 82 express concerns about the Brookhaven Crisis
20 Stabilization Unit in Region 8, staff members?

21 A He did.

22 Q Did person 82 believe that some of the credentials and
23 licenses maintained by staff members were not legitimate?

24 A He did.

25 Q Did person 82 tell you that a therapist at Region 8 wrote

1 false information in his clinical record?

2 A He did.

3 Q Were you able to determine whether any of the things person
4 82 told you about Region 8 were true or untrue?

5 A I wasn't able to make that determination.

6 Q Does person 82's pornography conviction negatively impact
7 his employment and housing options?

8 A It does.

9 Q Why does that negatively impact his employment option?

10 A Well, I think when people would see that on a record, I
11 mean, there's certainly a prejudice against people that have
12 that kind of a charge, that kind of a conviction and have done
13 time. So many opportunities, occupational opportunities, would
14 be not available to him.

15 Q Why does person 82's child pornography conviction
16 negatively impact his housing options?

17 A Well, I think that, again, with that kind of a conviction,
18 I think that there would be certainly a prejudice against
19 offering that kind of a person -- that person with that kind of
20 a conviction, you know, housing.

21 Q Some people just may not be willing to lease housing to
22 him?

23 A Correct.

24 Q Okay. Last one, person 86, starts on page 117 of 144 of
25 your report. Does person 86 have a forensic history?

1 A He does.

2 Q Was person 86 charged with stabbing his father to death in
3 1997?

4 A That's correct.

5 Q And was person 60 -- excuse me. Was person 86 found not
6 competent to stand trial and not restorable in the foreseeable
7 future?

8 A That's correct.

9 Q Was person 86 transferred by the circuit court to the
10 chancery court, and the chancery court committed him to
11 Mississippi State Hospital?

12 A That's correct.

13 Q Given person 86's forensic history, is it your
14 understanding that the MSH discharge advisory committee would
15 have to approve his discharge?

16 A Yes.

17 Q When you worked at --

18 A SEH.

19 Q -- SEH, did you -- thank you. When worked at SEH, did you
20 have any experience with forensic patients who were civilly
21 committed to SEH?

22 A Yes.

23 Q Was there any special discharge policies or procedures for
24 such individuals?

25 A Yes.

1 Q Was it similar to a discharge advisory committee?

2 A Right. I mean, in those situations, the forensic service,
3 we'd have to work very closely with the court, and the court
4 would have to review and approve any discharge plans, as well
5 as the type of housing that had been identified.

6 Q Do you take issue with the fact that Mississippi State
7 Hospital has a discharge advisory committee process for
8 individuals with a forensic history?

9 A Do I take issue with it?

10 Q Yes, sir.

11 A No.

12 Q Do you think that's appropriate?

13 A Yes.

14 Q And can --

15 A I don't know much about it, but just having that process,
16 you know, seems to be reasonable.

17 Q In your experience, can a discharge advisory committee
18 process prolong an individual's length of stay?

19 A It can.

20 Q All right, sir. I wanted to ask you about this, and I'm on
21 page 117 of 144 of your report, which is PX-401, and it's this
22 sentence in the last paragraph. "The identification and
23 acquisition of appropriate housing with the correct behavioral
24 health and environmental support for person 86 has been a
25 particularly difficult challenge for MSH." Did I read that

1 correctly so far?

2 A Yes.

3 Q Then you go on to say, "Historically, he has preferred an
4 independent arrangement, and the treatment team prefers a
5 supervised congregate placement."

6 My question to you is this: In your opinion, should person
7 86 have any supervision, if and when he is discharged?

8 A Yes.

9 Q What type of supervision do you believe would be
10 appropriate for person 86, if he were to be discharged?

11 A Well, it's hard for me to answer that because I haven't
12 seen any recent chart. So I don't know how he's doing or, you
13 know, what his current clinical status is.

14 Q All right. I will move on, then. I'm going to move on
15 next to your findings regarding which of the individuals you
16 reviewed. You recommended PACT 4. Did you recommend PACT 4
17 for 19 of the 33 living individuals you reviewed?

18 A Yes.

19 Q And I'll represent to you that that's 57 percent. When you
20 worked at SEH, a lot less than 50 percent of the people
21 discharged from SEH received PACT. Correct?

22 A Yes.

23 Q Is the percentage of people who received PACT nationwide
24 significantly lower than 57 percent?

25 A I don't know what the number is, sir.

1 MR. SHELSON: Your Honor, may I approach the witness?

2 THE COURT: Yes, you may.

3 BY MR. SHELSON:

4 Q All right, sir. Do you remember being deposed in September
5 of 2018?

6 A Yes.

7 Q Let me direct your attention to page 178, lines 3 through
8 6. The question is, "Do you know" -- you can keep this, and
9 I'll go back here. Sir, I'm on page 178 of your deposition.
10 The question beginning at line 3, "Do you know if the national
11 data indicates that anywhere near 57 percent of people with SMI
12 receive PACT services?" And what was your answer?

13 A My answer was, "Probably would be a lower number."

14 Q Do you know how many additional PACT teams Mississippi
15 would need in order to provide PACT services to 57 percent of
16 the people it discharges from its state hospitals?

17 A I don't.

18 Q Do you know how much it would cost to have that many PACT
19 teams?

20 A I don't.

21 MR. SHELSON: May I have a moment to confer, Your
22 Honor?

23 THE COURT: Yes, you may.

24 BY MR. SHELSON:

25 Q Mr. Byrne, is it your understanding that Mississippi

1 annually spends over \$200 million on its state hospitals and
2 about \$10 million on community-based services?

3 A I don't know what the exact number is for this fiscal year,
4 but I believe at least a few years ago, it was roughly those
5 numbers.

6 Q Are there adults in Washington D.C. with SMI who have unmet
7 mental health needs?

8 A Yes.

9 Q Do all states have unmet mental health needs for adults
10 with SMI?

11 A Yes.

12 Q Do you assess a state's mental health system on whether
13 there are adults with SMI who have unmet mental health needs?

14 A No.

15 MR. SHELSON: That's all the questions I have. Thank
16 you, Mr. Byrne.

17 THE COURT: All right.

18 MR. SCHUTZER: I will have some redirect, Your Honor,
19 I wonder if we could take a bathroom break first.

20 THE COURT: Okay.

21 MR. SCHUTZER: I appreciate that.

22 THE COURT: We'll take a 15-minute break. I'll take
23 care of my other matter that I've scheduled for 3:00, 3:15 or
24 whatever, but we'll be back in about 15 or 20 minutes. Court's
25 in recess.

1 (Recess)

2 THE COURT: All right. Is there anything we need to
3 take care of?

4 MR. SCHUTZER: No, Your Honor.

5 THE COURT: Other than your redirect, I know.

6 MR. SCHUTZER: That's it, Your Honor.

7 THE COURT: All right. You may proceed.

8 MR. SCHUTZER: Thank you.

9 REDIRECT EXAMINATION

10 BY MR. SCHUTZER:

11 Q Mr. Byrne, just a few questions for you. Mr. Shelson asked
12 you questions about what people's symptoms were when they were
13 committed to the state hospital. Do you recall those
14 questions?

15 A Yes.

16 Q Are there community-based mental health services that can
17 address a person's symptoms before they become so severe that
18 the person is committed?

19 A Yes.

20 Q Could you give a couple of examples of the services you're
21 referring to?

22 A Sure. There could be services like intensive home supports
23 intensive case management, case management, medication
24 services, crisis services, things of that nature, which
25 would -- you know, if the situation or the person is beginning

1 to deteriorate, there are interventions that can be provided
2 that would hopefully stabilize the person, stabilize the crisis
3 that they're in, and hopefully prevent a hospitalization.

4 Q Generally speaking, did the individuals that you looked at
5 receive those kinds of services before they went to state
6 hospitals?

7 A No.

8 Q Let's return to person 60. He begins on page 30 of your
9 report. You were asked some questions about his
10 self-amputation of his arm. When did that occur?

11 A Can you direct me to a page?

12 Q Without knowing the exact year, was it in the recent past
13 or had it been --

14 A My recollection is that it was several years ago.

15 Q Was he experiencing psychiatric symptoms at the time that
16 he amputated his arm?

17 A Yes.

18 Q Had he been hospitalized multiple times since then?

19 A Yes.

20 Q Was he, between those hospitalizations, receiving
21 community-based services?

22 A He was not.

23 Q Let's turn next to person 65, who's on page 47 of your
24 report. Directing your attention to the last paragraph, the
25 one that begins "For the lengthy MHS admission," do you see

1 that?

2 A Yes, I do.

3 Q See about half -- two-thirds of the way towards the bottom,
4 "Clinical reviewer, Dr. Bob Drake, spoke with the manager at
5 the personal care home"?

6 A Yes.

7 Q "The manager reported that he does not allow gay men at his
8 personal care home. He tried to get person 65 readmitted to
9 MSH, but MSH responded that being gay is not a valid basis for
10 commitment. The manager said that eventually, he was
11 successful in getting person 65 readmitted and referenced an
12 incident between person 65 and another resident." Do you see
13 all of that?

14 A I do.

15 Q Last week, Dr. Drake testified about a personal care home
16 he visited in north Jackson, where men who were living there
17 were drooling and not talking to each other. Are you aware
18 whether this is the same personal care home?

19 MR. SHELSON: Objection, exceeds the scope of the --
20 exceeds the permissible scope of redirect.

21 THE COURT: Objection sustained.

22 BY MR. SCHUTZER:

23 Q Your report says that person 65 was, after this incident,
24 readmitted to Mississippi State Hospital and discharged to a
25 different personal care home, the one that you met him at. Is

1 that correct?

2 A Yes.

3 Q What happened when you -- did you visit that personal care
4 home?

5 A I did.

6 Q What happened when you visited it?

7 A When I visited, the manager/owner of the home indicated
8 that I and my DOJ counterpart were not welcome and we needed to
9 leave.

10 Q Did anything else happen when you visited?

11 A Well, after we visited, we were able to -- spoke with the
12 gentleman that we were able to interview.

13 Q Finally, you were asked about whether there were people in
14 your group of 35 who were deceased. Do you recall that?

15 A Yes.

16 Q One of them is person 70. Is that correct?

17 A Yes.

18 Q Before person 70 died, was he receiving appropriate
19 community-based mental health services?

20 A No.

21 Q Did he seek them out? Person 70 is at page 66 of your
22 report.

23 A He did attempt to identify services that he thought might
24 meet his needs.

25 Q Did he receive any such services?

1 A Unfortunately not.

2 Q How did he die?

3 A He killed himself.

4 MR. SCHUTZER: No further questions.

5 THE COURT: All right.

6 I don't really have a question. I just want to clear
7 something up in the record. And this is to Mr. Shelson. I
8 think Mr. Shelson asked you if the state hospital was in Hinds
9 County. I believe the state hospital is in Rankin County.
10 Whitfield. Right? We're talking about Whitfield. Right?

11 MR. SHELSON: Your Honor is correct, and Shelson is
12 wrong.

13 THE COURT: I just -- and I know you were talking
14 about the number of miles, but I don't think it affects
15 anything because from Jefferson County to out there is about
16 the same or -- and I'll give you an opportunity, if it's
17 germane in some way.

18 MR. SHELSON: Thank you, Your Honor. Again, you're
19 right, and I misspoke.

20 THE COURT: Okay. All right. I have nothing for you,
21 Mr. Byrne. You may step down. Is this witness finally
22 excused?

23 MR. SCHUTZER: Yes, Your Honor.

24 THE COURT: All right. Mr. Byrne, you may go about
25 your normal duties. Thank you.

1 Call your next witness.

2 MR. SCHUTZER: We would. Your Honor, our next witness
3 will be Ledger Parker. He will be in in a moment. And in the
4 interim, I have one housekeeping matter I'd like to address,
5 and that is one of our experts, one of the United States'
6 experts, Mr. Kevin O'Brien, he -- in addition to submitting his
7 expert report, he submitted a rebuttal expert report. We
8 anticipate right now he will be testifying this week, traveling
9 in from Chicago, and we would like to take his testimony all at
10 once rather than having his rebuttal testimony come after the
11 state's expert that he's rebutting.

12 THE COURT: The only problem it would be, we don't
13 know what the State is going to put on. Maybe y'all will be
14 able to work it out some kind of way. I'll give you that
15 opportunity. I understand not having him come and go and then
16 come and go, but...

17 MR. SCHUTZER: Given the nature of his testimony and
18 the testimony of the expert, or the anticipated testimony of
19 the expert he's responding to, I think it will be relatively
20 clear.

21 THE COURT: Has he submitted, as part of his expert
22 report, the rebuttal to the other side's expert report.

23 MR. SCHUTZER: Yes. His rebuttal report was
24 submitted. And I don't remember if it was October or November,
25 but it was one of those months of 2018.

1 THE COURT: Oh, okay. So he will be testifying about
2 what's in his report, the report that was disclosed or reports
3 that were disclosed?

4 MR. SCHUTZER: Correct.

5 THE COURT: All right. That won't be a problem.

6 MR. SCHUTZER: Thank you.

7 THE COURT: All right. Call your next witness.

8 MS. FOX: United States calls Ledger Parker.

9 THE COURT: All right. Mr. Parker, the microphone is
10 there before you. Speak into it. You can bring it towards you
11 if you need to or adjust it any kind of way. Speak loudly and
12 clearly so we can all hear you. Speak at a pace at which the
13 court reporter can keep up with you. Allow the attorneys to
14 finish their questions before you begin to speak so that the
15 two of you will not be speaking at the same time, and make sure
16 all your responses are verbal.

17 If you will, state your name and spell it for the
18 record.

19 THE WITNESS: My name is Ledger Parker,
20 L-E-D-G-E-R P-A-R-K-E-R.

21 THE COURT: I'm going to ask you speak up just a
22 little bit. I can hear you fine.

23 THE WITNESS: Ledger Parker, L-E-D-G-E-R P-A-R-K-E-R.

24 THE COURT: Thank you.

25 MS. FOX: May I proceed?

1 THE COURT: You may proceed.

2 MS. FOX: Thank you, Your Honor.

3 LEDGER PARKER,

4 having first been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. FOX:

7 Q Mr. Parker, what is your job?

8 A I'm executive director of Mississippi United to End
9 Homelessness, MUTEH for short.

10 Q What is MUTEH?

11 A MUTEH is a 501(c)(3) nonprofit agency that focuses on
12 housing, vulnerable Mississippians in our state.

13 Q When was MUTEH established?

14 A MUTEH was established in 1991.

15 Q And where is it based?

16 A It's based out of our offices here in Jackson, Mississippi,
17 but we have offices all across the state.

18 Q Do you serve people all across the state?

19 A Yes. Our bylaw allow us to serve anyone in Mississippi's
20 82 counties.

21 Q How many employees do you have at MUTEH?

22 A Right now, 43 employees.

23 Q And how long have you been in the role of executive
24 director there?

25 A I became executive director in 2017, but I've been at MUTEH

1 since 2010.

2 Q What are your responsibilities as the executive director?

3 A As the executive director, I oversee our contracts and
4 various grants that we have. I help facilitate some statewide
5 and national partnerships, as well, but then also oversee our
6 staff to make sure that they are functioning as they are
7 supposed to.

8 Q What's your educational background?

9 A I'm going into my third year at Mississippi College School
10 of Law, and then also finishing up a Master's of Public
11 Administration at the University of Louisiana Monroe. And I
12 have an undergraduate from Jackson State University.

13 Q And that's along with your full-time job?

14 A Yes.

15 Q What programs -- can you describe generally the types of
16 programs that MUTEH runs?

17 A MUTEH, in its mission, we seek to serve Mississippi's
18 vulnerable populations. We work with disabled homeless folks,
19 but also homeless veterans as well. We provide housing options
20 and data tracking services for them. And then we work with
21 people that are living with HIV or AIDS in housing and housing
22 vulnerable, and then also those that are exiting or have been
23 in and out of Mississippi's psychiatric institutions.

24 Q And that final program, working with individuals who've
25 been in and out of the psychiatric institutions, what's the

1 name of that program?

2 A CHOICE.

3 Q How did you become interested in affordable housing?

4 A Well, it started working with homeless people in a ministry
5 setting at a church, just through college. And then I found
6 that there were actual government subsidies available for those
7 people, and I came to work in MUTEH in 2010.

8 Q Were you subpoenaed to be here today in court?

9 A Yes.

10 Q Next, I'd like to ask you about supported housing generally
11 and get some related terminology, some definitions of key
12 services. What is supported housing?

13 A Supported housing is the belief that you can put somebody
14 into housing and at the same time be providing case management
15 or connection to other resources that they may need for
16 whatever their situation is.

17 Q What is the Housing First model?

18 A Housing First is a new initiative, relatively new, before
19 people had the approach of getting someone housing ready, which
20 meant that they had to accomplish some type of service plan
21 before they were actually going into housing. Housing First
22 changes that to you put them in housing first, and then, as you
23 have them housed, you start to connect them to those resources
24 and provide case management while they're in housing.

25 Q Is Housing First a common approach in supported housing?

1 A Yeah. Nationally, it's a trend with both HUD and the VA
2 and their housing programs. You see it in communities all over
3 the nation.

4 Q What's the difference and impact if you take a Housing
5 First approach?

6 A What research tells us is that you will run usually
7 probably twice as good of success rates. Long-term stability
8 rates typically double with Housing First approach. At the
9 same time, the intervention, the subsidy that you're using, is
10 typically more efficient, so you'll spend less in the Housing
11 First intervention with double the results, the positive
12 results.

13 Q And that, what you just described, the impact, is that the
14 impact for supported housing or Housing First or both?

15 A Both.

16 Q You mentioned that with the Housing First approach as
17 compared to requiring people to be housing ready, in Housing
18 First, you don't wait for them to meet certain requirements or
19 thresholds before providing housing. Is that right?

20 A (No verbal response.)

21 Q What's the impact of that choice, of not waiting --
22 requiring housing readiness?

23 A We see that clients are more likely to actually
24 meaningfully participate in the services that are provided to
25 them when they're in their housing, what they see as their

1 housing, versus trying to utilize those services to get into
2 housing. They usually are more meaningfully participate in
3 those services in Housing First.

4 Q What kinds of services?

5 A So they're diverse. I mean, we work with health care
6 providers, mental health care, but then also job readiness
7 programs, employment support, and then even just case
8 management or master level social workers will work with that
9 client through a service plan and case management as well.

10 Q And what's your understanding about why it is more
11 successful to work with people, engage them in those supports
12 after they're in housing?

13 A I think that somebody being in housing gives them a level
14 of security to where now they can mentally and emotionally
15 focus on areas that they probably have compartmentalized off
16 and not addressed.

17 Q When you use the term -- do you use the term "supported
18 housing" and "supportive housing" interchangeably?

19 A I do, yes.

20 Q What is scattered site housing?

21 A So MUTEH rehoused 401 households last year, and we used a
22 scattered site approach, in the calendar year of 2018.

23 Q Was that all in the CHOICE program or all your programs?

24 A All of our various programs.

25 Q Go ahead.

1 A We use a scattered site approach. That means that our
2 clients find housing, and we help find them housing in the
3 community, rentals that anybody in the market will be able to
4 get in their name.

5 Q So it could be an apartment, an affordable apartment next
6 to yours or mine?

7 A That's right.

8 Q What is Section 8 housing for the housing CHOICE voucher
9 program?

10 A Section 8 vouchers come from the federal government. They
11 come particularly through housing authorities, whether regional
12 housing authorities or housing authorities associated with a
13 municipality. There are federal funds that simply provide the
14 housing subsidy. They're housing focused and may have low
15 levels of case management, but not always. Typically It's just
16 housing.

17 Q And so how would that be different from supported housing,
18 if at all?

19 A Supported housing brings in the case management as much as
20 it brings in housing. We are working -- we house people first.
21 We try to make sure they are connected to all of the different
22 resources that they need to be connected to to maintain
23 stability. So case management is just as important as the
24 housing component.

25 THE COURT: Could you slow down just a little bit. I

1 mean, you're talking great, but it sounds like you're talking
2 fast. That's all.

3 THE WITNESS: I will.

4 BY MS. FOX:

5 Q Is supported housing different from a group home?

6 A Yes.

7 Q How so?

8 A In supported housing model, the client has autonomy over
9 their unit. They have responsibility and ownership over their
10 unit. And typically, they have their own set-aside space. So
11 there may be some variations of it that have shared housing,
12 but even the shared housing model would look drastically
13 different than group home -- than a group home model.

14 In shared housing, they still have their own housing. They
15 have their own space that they control, where in a group home
16 setting, they feel like they are watched over more closely, and
17 typically it's not considered their home, it's not considered
18 their room, and so that's the difference.

19 Q Who typically holds a lease -- holds the lease in supported
20 housing?

21 A In all of MUTEH's programs, our clients will hold the
22 lease.

23 Q Is supported housing an evidence-based practice?

24 A Yes.

25 Q Based on your knowledge, what are some of the outcomes

1 associated with supported housing?

2 A Whenever we look at supported housing, typically we see a
3 reduced cost to the state or community. So you'll see, even
4 with providing free supportive housing, you can see savings,
5 like \$9,500 per household per year -- per individual. I'm
6 sorry. Per year.

7 Q And what's the basis for those savings?

8 A Typically, they access emergency and crisis services much
9 less frequently. There will be a tremendous drop in those.
10 And they also will start accessing more affordable, you know,
11 interventions that we would use. Instead of going to the ER,
12 they go to their clinic. And instead of calling a crisis line,
13 they schedule an appointment with their mental health care
14 provider.

15 Q Do you know if supported housing is a program used in other
16 states?

17 A Yes.

18 Q How do you know that?

19 A Well, HUD funds it across the nation through the CSC
20 grants, and then we also get money from the VA as well. They
21 fund the exact same model. So you see it in communities all
22 across the nation.

23 Q What populations are receiving supported housing through
24 those grants and any other that you're aware of?

25 A Any vulnerable housing population, but those people that

1 are living with HIV or AIDS, people that have a mental health
2 care or mental health diagnosis, and those also that may have a
3 physical disability that impairs their ability to live
4 independently.

5 Q Is supported housing a program that's specifically
6 effective for people with serious mental illness?

7 A Yes.

8 Q Why is that?

9 A Once again, when somebody is in the security of their own
10 housing, typically they're much more likely to open the door to
11 for the mental health care provider, whether it an ACT model
12 team or an intensive case manager.

13 Q Now, I'd like to ask you about the CHOICE program here in
14 Mississippi. Did the Technical Assistance Collaborative
15 prepare a important on the need for supportive housing here in
16 Mississippi?

17 A Yes.

18 Q Do you know if that report was commissioned by the
19 Department of Mental Health?

20 A I believe so.

21 Q If you could look at PX-163 in your binder. I believe it's
22 the first tab. Is this that report?

23 A Yes.

24 MS. FOX: This document, Your Honor, was previously
25 admitted into evidence.

1 THE COURT: Okay. Thank you.

2 BY MS. FOX:

3 Q What's the title of this document?

4 A "Statewide Approach for Integrated Supportive Housing in
5 Mississippi."

6 Q What year was it written?

7 A In 2014.

8 Q Now, if you turn to the Bates page 19 in this document,
9 which is the small number in the bottom right of the documents,
10 including the recommendations in this report, can you read
11 recommendation 3 for us?

12 A "The Mississippi Legislature should develop and appropriate
13 funds for a state-funded bridge housing subsidy program, HSP."

14 Q And is there a program now in Mississippi that meets that
15 description?

16 A I believe so, yes.

17 Q What's that program?

18 A CHOICE.

19 Q Is it your understanding the CHOICE program was developed
20 in response to this recommendation?

21 A Yes.

22 Q Can you next look at JX-51, the second document in your
23 binder, which also was previously admitted into evidence.
24 Looking at page 1 -- well, first of all, what is this document?

25 A I believe this is an annual report or one of the reports

1 that Ben Mokry at Mississippi Home Corp developed.

2 Q Who is Ben Mokry?

3 A Ben is the vice president and chief strategy officer of
4 Mississippi Home Corporation.

5 Q And what's their role in the CHOICE program?

6 A I believe they're tasked with administering the dollars for
7 the legislature.

8 Q Looking at the bottom half of this page, does this
9 document, this report on the CHOICE program indicate who the
10 target population is for the CHOICE program?

11 A Yes.

12 Q Who is the target population? You can summarize it in your
13 own words.

14 A People that are being discharged from the state psychiatric
15 hospital after they've been there for more than 90 days, or
16 they've been discharged from the state psychiatric hospital in
17 the last two years and have had multiple hospital visits in the
18 last year due to mental illness, or known to mental health or a
19 state housing agency to have been arrested or incarcerated in
20 the last year due to conduct related to their mental illness,
21 or they're known to the mental health or state housing agency
22 to have been homeless for one full year and have had four or
23 more episodes of homelessness in the past three years. And
24 then lastly, they are discharged from a nursing facility or an
25 intermediate care facility after a stay of more than 90 days,

1 and they have an SMI diagnosis.

2 Q Are these serious mentally ill people who are also housing
3 vulnerable?

4 A Yes.

5 Q Can you describe for us the components of the CHOICE
6 program that MUTEH provides?

7 A We seek kind of a marketing component, marketing and
8 outreach, of traveling around the state, letting different
9 mental health entities know what's available under CHOICE and
10 who's eligible. Then also the assessment that we do with
11 clients, from housing identification, move-in assistance, and
12 housing case management as well.

13 Q Great. Let's take each of those briefly. So, for the
14 outreach component, what does that entail?

15 A For outreach, we've gone to all of the state hospitals, the
16 mental health hospitals, and also to CMRC, and to many of the
17 community mental health centers and crisis stabilization units
18 to educate staff on what's available in CHOICE and who's
19 eligible. But then the outreach also involves, whenever we get
20 a referral, following up with the hospital or the CMHC.

21 Q If we could look at JX-1, the next tab in your binder,
22 which is another document previously admitted into evidence.
23 What is this document?

24 A This is a flyer for the program that we take with us when
25 we do outreach.

1 Q The next component you mentioned was enrollment.

2 A Uh-huh.

3 Q Can you tell us a little bit what you do there?

4 A Once we get a referral from one of the mental health folks,
5 we will -- Department of Mental Health will ultimately confirm
6 that they're eligible for CHOICE, and then we will follow up
7 typically within one business day. We'll come out and provide
8 an assessment there on site. We use a triage tool to kind of
9 generate a score that measures their vulnerability, and then we
10 also make sure that they are able to live independently and
11 aren't a danger to themselves or others. And they will be
12 admitted into CHOICE, and we'll start looking for a unit.

13 Q I'll get into the DMH part of the process in a minute, but
14 can you next talk about the housing identification component?

15 A So when somebody's in care, we will work with them to
16 figure out where they want to live, what part of the state
17 typically they are from. We'll ask that question. That's
18 usually where they want to go back to. And then they have the
19 opportunity, if they have housing in mind that they think they
20 may be able to access, they're able to bring options to the
21 table, but our housing staff will also go and find several
22 different options for them to choose from that we can recommend
23 to the client.

24 Q Why does allowing the client to identify the area where
25 they want to go or even the unit that they'd like to go to make

1 a difference?

2 A We feel like if they are invested in that decision, it's
3 helpful in their care. But also, people have support networks
4 and family and friends that they want to get back close to.
5 And typically, those are vital in achieving long-term
6 stability.

7 Q Have there been times when you've not been able to identify
8 housing near where someone wants to live?

9 A There are times, depending on the area of the state that
10 we're looking in, that we can't find it.

11 Q Why would that -- why wouldn't you be able to find it?

12 A We're bound by the fair market rent rates for each county.
13 And so sometimes we can't find affordable housing that meets
14 that standard.

15 Q Is there any particular part of the state where that has
16 been particularly difficult?

17 A DeSoto County would be a good example.

18 Q And is that frequent or infrequent in terms of inability to
19 find something for a client?

20 A We don't track it, but there's just certain areas of the
21 state that if a client says that, we're going to immediately
22 tell them in person, hey, you probably need to be thinking
23 about the second best option for you. What's the second city
24 you'd want to live in.

25 Q Do you continue working with them at that point?

1 A Yes.

2 Q Next thing you mentioned was the housing support and case
3 management. What does that entail?

4 A We see ourselves as coordinators of case management, which
5 means that we look for the mental health case management that
6 may be available in the area. So we try to connect them to the
7 community mental health center and let them receive mental
8 health care through that entity. And then we see ourselves as
9 the safety net if there's crisis, but also as the housing case
10 management. We serve as liaison between the client and the
11 landlord and can address issues as they come up.

12 Q Can you give an example of that?

13 A You know, somebody's leaving junk on their front porch, and
14 the landlord doesn't like it. Instead of leaving a note that
15 could startle the client or trigger something, we -- they
16 usually call us, and then we can go and talk to the client
17 about maybe we need to get our boots off the porch in the
18 evening.

19 Q And I think you were indicating, does MUTEH provide the
20 mental health services to clients receiving CHOICE services?

21 A Not ideally.

22 Q So who does typically provide that?

23 A Usually we look to the mental health services are available
24 in that area.

25 Q Have you identified any community mental health services

1 that are particularly effective for people who've been in the
2 CHOICE program?

3 A Yeah, we like -- we look to PACT often, and then also
4 there's other, like, AOT teams that are a PACT level resource
5 that we can get people into.

6 Q What is AOT?

7 A It's an outpatient treatment program that's at the level of
8 PACT. Typically, I think it's required for that person, and so
9 they will participate.

10 Q What about having PACT is helpful for people in the CHOICE
11 program?

12 A Well, it's a multi-disciplinary team, so there's different
13 areas of expertise with each team member, and so they can
14 usually handle just about any situation that comes up with our
15 clients, whether it's trying to budget or work on employment
16 support, even outside of their mental health issues.

17 Q Can all the participants in CHOICE access PACT services?

18 A No. It depends on where you are in the state if you can
19 access PACT.

20 Q When was the CHOICE program started?

21 A We started serving clients in early 2016.

22 Q And how do you identify potential participants in CHOICE?

23 A Most of them will be referred through a database by a
24 mental health provider, whether it's a state hospital or a
25 community mental health center.

1 Q Who approves someone for participation in the program?

2 A Department of Mental Health and Ms. Sherry Holloway at DMH.

3 Q Do any other state agencies have a role? I think you
4 mentioned Mississippi Home Corporation.

5 A Yes, Mississippi Home Corporation, they don't approve them
6 for the program, but they will review that documentation when
7 we're working to get funding.

8 Q What's their general role in the program?

9 A It feels like to administer the funds. So they make
10 sure -- like we can't pay rental assistance. We have to draw
11 down from Mississippi Home Corporation, and then even guiding
12 some of the data tracking and stuff like that.

13 Q The legislature appropriate the funds to Mississippi Home
14 Corporation?

15 A That's my understanding.

16 Q Okay. Are you, at MUTEH, the only providers of the CHOICE
17 program at this point?

18 A No, we are one of two. So Open Doors, Homeless Coalition
19 on the coast also is a CHOICE provider.

20 Q In the CHOICE program, is there a time limit for
21 participation?

22 A Twelve months.

23 Q What is supposed to happen during those 12 months?

24 A Hopefully, with whatever case management and services
25 they're getting from the mental health provider, they're also

1 working on a plan for at the end of the assistance.

2 So some of our people will go to housing vouchers,
3 Section 8 vouchers. Some will be able to develop disability
4 income or some other type of earned income that they can use to
5 pay their rent. And then others may have, you know,
6 reconnected with family and be able to move in with family. So
7 those are the options.

8 Q The housing choice -- excuse me. The CHOICE program is
9 called a bridge subsidy. Is that right?

10 A Yes.

11 Q And so are these -- you're bridging to one of those
12 solutions at the end of the day?

13 A Yes.

14 Q What happens if someone hasn't found the next step for
15 housing at the end of a 12-month period?

16 A We can ask for an extension from Mississippi Home
17 Corporation. It usually, I think, goes directly to Ben. And
18 we'll have to have a plan in place of how are they going to
19 become stable, given the extension.

20 Q What kind of plan might that be?

21 A For some, that plan could be that they have disability
22 actually coming through, and they'll actually have disability
23 income to be able to help cover their rent payment. Others
24 it's been that there's been a project-based Section 8 voucher
25 that's available, and they are able to move into it, but they

1 need time.

2 Q You -- now I'd like to ask you about how many people you've
3 served through the CHOICE program. How many people so far have
4 you been able to serve in CHOICE?

5 A A little over 400 households.

6 Q How many are currently on the rolls at MUTEH?

7 A 157.

8 Q Could MUTEH serve even more people than the 157 that you
9 are currently serving?

10 A I believe so.

11 Q Could you serve even more than 157, even with the same
12 funding that you have?

13 A Yes.

14 Q About how many could you serve in a given year with your
15 current funding?

16 A I believe we've had months where we've had 20 move-ins,
17 which means we moved 20 people into housing. We believe that
18 we could get close to that. So somewhere between 200 and
19 around 240, close to it.

20 Q Do you believe that there's a need for more people to
21 receive CHOICE services than are currently receiving them?

22 A Yes.

23 Q Why do you think that?

24 A In all of our time of providing CHOICE services, we've
25 never had to turn people away because we were at capacity on

1 housing. So we've always been able to serve everyone that's
2 ever been referred to CHOICE that was eligible for it. So in
3 theory, there's -- we have the room to be able to serve more if
4 there was that demand.

5 Q And do you think there is additional demand?

6 A Yes.

7 Q Why do you think that?

8 A In working with CHOICE services, there are all of these
9 referring mental health providers, and there are some that go
10 long periods of time without making any referrals. So it would
11 be illogical for us to think that they aren't having anybody
12 that's eligible.

13 Q What types of providers are you talking about when you say
14 there's providers that go long periods without referring anyone
15 to CHOICE?

16 A State hospitals.

17 Q Any other providers?

18 A And then some community mental health centers as well, yes.

19 Q Has the state made any estimates of the number of units of
20 CHOICE that would be needed to meet the needs?

21 A Yes.

22 Q About -- what are the estimates, to your knowledge?

23 A From early conversations, there was the number 2500 units
24 that were needed to be established.

25 Q If you could turn to JX-5 in your binder, another document

1 that's previously been admitted to evidence. Can you tell us
2 what this document is?

3 A It's from Medicaid. It's the MAC 2.0 Stakeholder's Meeting
4 Minutes.

5 Q What date was this meeting?

6 A November 4, 2015.

7 Q Could you turn to Bates Number 3 of this document to the
8 bullet with the header over it "Ben"?

9 A Yes.

10 Q Is this in line with the estimate, as far as you understood
11 it, of the need?

12 A Yeah, it says here we need about 2500 units.

13 Q Do you have any reason to agree or disagree with this
14 estimate?

15 A I would trust it.

16 Q You mentioned that you believe you could serve even more
17 people in the CHOICE program than you currently have. Why
18 aren't you serving even more people?

19 A We take what's referred, so if they come -- as the
20 referrals come in, we serve them. So, I mean, we could look
21 and say that there's not the number of referrals that we would
22 have anticipated in all of the different areas of the state.

23 Q Do referrals, particularly referrals from state hospitals,
24 when they come in, do they typically come in to you on the
25 first few days after someone is admitted to a state hospital or

1 toward the event of the time that they're at the state
2 hospital?

3 A Ideally, they would come in early in their hospital stay,
4 or at even admission, but typically they come in near the end
5 of someone's stay at the hospital.

6 Q Why do you say ideally they would come early on?

7 A If that referral happened at assessment, when they admitted
8 them into the program, it would allow for more time for housing
9 documents and even, you know, housing units to be identified to
10 be able to get them ready.

11 Q Thinking back on the last year of services at MUTEH, how
12 many referrals did you get from Mississippi State Hospital?

13 A Forty.

14 Q And it can be approximate, if you don't recall.

15 A In 2018, around 40.

16 Q And how many from North Mississippi State Hospital?

17 A Eighteen.

18 Q How about from South Mississippi State Hospital?

19 A Thirteen.

20 Q And what about from East Mississippi State Hospital?

21 A Twelve.

22 Q I'd like to show you some deposition testimony. And this
23 is from page 110 of the report compiling the designated
24 deposition testimony that we filed as Exhibit 2 to the pretrial
25 order. I also have copies here that I can provide. This is

1 Sheila Newbaker's deposition at page 56, beginning on line 24
2 of the deposition.

3 MS. FOX: May I approach, Your Honor?

4 THE COURT: Yes, you may.

5 MS. FOX: It's Sheila, S-H-E-I-L-A, Newbaker,
6 N-E-W-B-A-K-E-R.

7 BY MS. FOX:

8 Q Would you read for us from the deposition starting at page
9 56, line 24, until page 58, line 4.

10 A What was that first -- where do you want me to start?

11 THE COURT: I tell you what, it will probably -- since
12 this is so long, you ask the question and allow him to do the
13 answer.

14 MS. FOX: Okay.

15 BY MS. FOX:

16 Q Okay. Are you familiar --

17 "Question: Are you familiar with other supportive housing
18 programs in the state of Mississippi?"

19 A "I'm familiar with the MUTEH" -- "Answer: I'm familiar
20 with the MUTEH program for the homeless."

21 Q "Question: What is that?"

22 A "Answer: It's a program that -- it's mostly used by our
23 social workers at our group home when they're doing a
24 placement. It will provide housing for, like, one year."

25 Q "Question: For one year?"

1 A "Answer: Yes."

2 Q "Question: And is that specifically for homeless
3 individuals?"

4 A "Answer: Yeah."

5 Q "Question: And do you know whether EMSH refers individuals
6 to MUTEH?"

7 A "Answer: Not to my knowledge."

8 Q "Question: Is there anyone at East Mississippi State
9 Hospital who would have knowledge about the CHOICE program?"

10 A "Answer: Yes. Probably some of the social workers would
11 know."

12 Q "Question: Are you aware of whether or not East
13 Mississippi State Hospital is currently referring clients to
14 the CHOICE program?"

15 A "Answer: I'm not aware."

16 Q In light of this -- is this consistent with the rate of
17 referrals that MUTEH has received from East Mississippi State
18 Hospital to the CHOICE program?

19 A Yes.

20 Q Does it appear that Ms. Newbaker understood the eligibility
21 criteria for the CHOICE program?

22 MR. SHELSON: Objection. Calls for speculation as to
23 what Ms. Newbaker knew.

24 THE COURT: Objection sustained.

25 BY MS. FOX:

1 Q Did Ms. Newbaker indicate that the program was for homeless
2 individuals?

3 A Yes, she indicated that.

4 Q Is the CHOICE program available only to individuals who are
5 homeless?

6 A No, that's not the case.

7 Q Have you conducted outreach to East Mississippi State
8 Hospital about the CHOICE program?

9 A Yes.

10 Q Can you accept referrals directly from state hospitals to
11 the CHOICE program?

12 A Yes.

13 Q Does the State have access to the data on referrals to the
14 CHOICE program showing where referrals came from and how many
15 there were?

16 A Yes.

17 Q Do you -- does MUTEH provide that data to the Department of
18 Mental Health?

19 A Yes.

20 Q How often?

21 A Monthly.

22 Q You mentioned earlier that what you -- part of the work
23 that MUTEH does includes outreach to educate people about the
24 program. Is that right?

25 A Yes.

1 Q Can you estimate approximately how many outreach meetings
2 MUTEH has undertaken to educate the state hospitals and other
3 providers about the program?

4 A I'd say dozens, dozens.

5 Q Now I'd like to look at JX-15, which is also included in
6 the binder in front of you, another document that was
7 previously admitted into evidence. If could you look at page
8 121 of this document. Looking at the top, and can you read the
9 title across the top of this document?

10 A "Program Performance Indicators and Measures."

11 Q Looking at the top of the document, what facility does this
12 appear to be discussing?

13 A South Mississippi State Hospital.

14 Q Looking at number 1 on that page, how many individuals were
15 served in FY2017 at South Mississippi State Hospital?

16 A 593.

17 Q Looking down a little further, how many individuals were
18 discharged to homelessness in FY2017?

19 A Forty-nine.

20 Q And how many did they project they would discharge to
21 homelessness in FY2019?

22 A Forty-three.

23 Q Looking down a little further on the page, how much did it
24 cost the state to serve someone in the state hospital, South
25 Mississippi State Hospital, per person per day in 2017?

1 A \$473.95.

2 Q And thinking back to the number of referrals, can you
3 remind us how many referrals MUTEH received last year from
4 South Mississippi State Hospital?

5 A Eighteen.

6 Q Was that your testimony about North Mississippi or South
7 Mississippi State Hospital?

8 A You're right. North Mississippi was 18. South was, I
9 think, 13. Yeah, 13.

10 Q Is this data about discharges to homelessness consistent
11 with your knowledge in your work in CHOICE?

12 A Can you clarify?

13 Q Is it your understanding, based on people that you have met
14 in outreach you've conducted that individuals are discharged to
15 homelessness from State Hospitals?

16 A Yes.

17 Q Could those individuals be referred to the CHOICE program?

18 A Yes.

19 Q Are you receiving referrals that would indicate to you
20 everyone who is homeless is being referred to the CHOICE
21 program before discharge from a state hospital?

22 A No.

23 Q Are you aware of any policy requiring the state hospitals
24 to refer to CHOICE before discharging to homelessness?

25 A Not to my knowledge, there's not one.

1 Q Have you ever made a recommendation about such a policy?

2 A We thought that it would be good for the Department of
3 Mental Health, just at every portal of entry into the state's
4 mental health system, to assess for CHOICE at that time, and if
5 appropriate, to make the referral upon admission.

6 Q You mentioned that the community mental health centers can
7 also refer to CHOICE. Is that right?

8 A Yes.

9 Q Do you serve some -- have you served more clients in some
10 community mental health center regions than in others?

11 A Yes.

12 Q If we can look at PX-416, which is also included in your
13 binder and was previously admitted into evidence, this is the
14 CHOICE program client addresses for participants between
15 February 2016 and January 2018.

16 Looking at this map, each red dot is an indicator of the
17 address of one CHOICE participant. Is this consistent with
18 your knowledge of where people have been served through the
19 CHOICE program at least as of January 2018?

20 A Yes.

21 Q In your experience, have -- which regions have served --
22 excuse me, have referred more clients to the CHOICE program?

23 A Regions 9 and 8, 10 and Region 3 and 12.

24 Q Are there some CMHC regions where you have served fewer
25 than five clients?

1 A Yes.

2 Q What are some of those Regions?

3 A Region 6, Region 1, Region 2, Region 7, Region 11, and
4 Region 15.

5 Q Turning to costs and spending on the CHOICE program, has
6 MUTEH spent all of the money that was allocated to it in each
7 year of the program?

8 A No.

9 Q Why not?

10 A The first year for sure, there just wasn't the number of
11 referrals to serve.

12 Q Did you estimate approximately how much it would cost
13 someone -- cost to serve someone through the CHOICE program
14 before the program started?

15 A Yes. We projected to spend around 10,500 per household per
16 year.

17 Q How much has it actually cost to serve people in the CHOICE
18 program?

19 A By our estimation, with every dollar spent for CHOICE on
20 the household, right at \$8,000.

21 Q It costs less than what you expected?

22 A Yes.

23 Q Why?

24 A Rental rates were cheaper than we anticipated. So I think
25 that that was something that we didn't foresee. And the areas

1 where we have concentrated populations, those were low FMRs, so
2 we had to spend less on rent there.

3 Q Have you been maintaining data on the impact of the CHOICE
4 program at discharge on the people who've participated in the
5 program?

6 A Yes.

7 Q Can you look back at JX-51 at page 6. Looking at the chart
8 here and/or based on your own knowledge of the outcomes, can
9 you summarize how the program has impacted the participants?

10 A The majority, the largest groups exit into a rental by
11 client, with no ongoing subsidy. And then the others are
12 living with family.

13 Q Before -- can you tell me about some of the people, stories
14 of any individuals who you recall have participated in the
15 CHOICE program and the impact on them?

16 A One of our first clients that we worked with was in the
17 Kemper County group home. He had been in and out of the
18 hospital there at East for over two years. He had -- his wife
19 had gotten ill. She eventually passed away. He lost -- he
20 quit his job to stay home to take care of her and ends up
21 struggling with depression and then goes into the hospital
22 setting.

23 When we got him, we got him into housing. We got him
24 connected to different mental health resources. Some of those
25 he opted to take the more minimal mental health services. And

1 even now, he's still employed. He got employment with the city
2 there and has maintained his own rental housing for all of
3 these years since 2016.

4 Q Any other individuals that you can recall?

5 A There are others. There's another in the Jackson area.
6 Whenever we first got him housed, he didn't really want to open
7 the door to mental health services, and so we went over there
8 with homemade brownies from Laura Brown on our team, and he
9 started opening the door for PACT services. And now that
10 landlord, years later, would tell us, and he's paying his own
11 rent now, that he's one of the best tenants he's ever had in
12 housing.

13 Q Thank you.

14 MS. FOX: Your Honor, if I could have a moment to
15 confer.

16 THE COURT: You may.

17 (Short Pause)

18 BY MS. FOX:

19 Q Just for clarification, in document JX-5, which was the MAC
20 stakeholder meeting minutes where it said "Ben," who was Ben?

21 A Ben Mokry at Mississippi Home Corporation.

22 Q You testified that, where possible, the community mental
23 health centers are responsible for the mental health services
24 that individuals receiving CHOICE services receive. Is that
25 right?

1 A That's right.

2 Q What happens when services are not available through the
3 community mental health center?

4 A MUTEH employs licensed masters level social workers that
5 can fill in as needed, but our hope is usually to connect them
6 to the services that are available in the community.

7 Q So do the MUTEH staff have time and resources to serve as
8 the mental health professionals?

9 A Not really, no.

10 Q You testified that you thought it would be good for DMH to
11 assess for CHOICE at every point of entry to the state's mental
12 health system. In your experience, is that actually occurring?

13 A No.

14 MS. FOX: No further questions.

15 THE COURT: All right.

16 MR. SHELSON: May I proceed, Your Honor?

17 THE COURT: You may.

18 CROSS-EXAMINATION

19 BY MR. SHELSON:

20 Q Good afternoon, Mr. Parker.

21 A Good afternoon.

22 Q Once MUTEH gets a referral, what is the process for placing
23 the client in housing?

24 A Once they get the referral and it's confirmed by the
25 Department of Mental Health, that they are eligible for the

1 program, we'll go into wherever that person's at and work with
2 the client to figure out where they want to go, and then also
3 what housing is appropriate for them, given their household
4 size. And we'll try to come up with options for them there.

5 Q So if the person is in a state hospital, you go to the
6 state hospital?

7 A Yes.

8 Q What -- Ms. Fox asked you about scatter site housing. Do
9 you remember that?

10 A Yes.

11 Q Is scatter site housing the same thing as permanent
12 supported housing?

13 A It can be.

14 Q So what type of housing is available through CHOICE?

15 A It's scattered site, and it would be called permanent
16 supportive housing in the community.

17 Q So in the context of CHOICE, permanent supported housing
18 and scatter site housing are the same thing?

19 A Yes.

20 Q Yes?

21 A Yes.

22 Q All right. So is permanent supported housing staffed?

23 A Not on site.

24 Q Is it supervised on site?

25 A No.

1 Q All right. So to the extent that any experts for DOJ are
2 making housing recommendations that are not scatter site
3 housing, is it correct that that housing is not available
4 through CHOICE?

5 A I think that's correct.

6 Q What is a wraparound service?

7 A It's service that you wrap around them in the housing. So
8 when they enter into housing, we're connecting them to
9 different services that they need to remain stable.

10 Q What are the most common wraparound services that MUTEH's
11 clients receive?

12 A Typically, if we're talking about mental health care, it's
13 going to be the wraparound services provided by the community
14 mental health center in that area.

15 Q Can you give any examples of what type of mental health
16 services they offer?

17 A So intensive case management, even peer support at a lower
18 level, but PACT teams, AOT teams, and then when needed, MCERT
19 teams, mobile crisis teams.

20 Q Approximately what percentage of MUTEH's clients receive
21 PACT services?

22 A PACT alone, I guess would be 30 percent. But with AOT,
23 you're looking at 50 percent total.

24 Q You covered this a little bit, but I wasn't entirely clear
25 on it. What funding does MUTEH receive from the State?

1 A We receive CHOICE funding from both Mississippi Home
2 Corporation and from the Department of Mental Health.

3 Q So -- well, do you know how much funding MUTEH ultimately
4 received from the State?

5 A It's varied from year to year. When it first started, it
6 was around a million and 78,000 per year for three years, was
7 what it was set up to be, but it's changed.

8 Q What has it changed to?

9 A In the next year, they took leftover unspent funds and
10 grouped it in to -- I think it ended up being around
11 1.49 million. And then I think that's where we're at right
12 now.

13 Q Now, to be clear, is that just what MUTEH receives, or is
14 that the entire CHOICE program?

15 A I believe that's what MUTEH received, and it was multiple
16 years of state funding that they were actually allocating at
17 that time.

18 Q Based on your experience, how is the CHOICE program
19 working?

20 A I think it's working well.

21 Q Why do you think that?

22 A Because it's been able to ramp up and serve a lot of
23 different people all across the state of Mississippi, different
24 communities everywhere, and being able to connect them to
25 mental health services.

1 Q You testified that it's your view that there should be more
2 referrals from the state hospitals to CHOICE. Is that correct?

3 A Yes.

4 Q All right. With -- and specifically, you would like to see
5 enough referrals from state hospitals to get to a capacity of
6 around 200 to 240 individuals per year?

7 A Yes.

8 Q All right. And other than that, do you have any complaints
9 regarding what the state hospitals are doing regarding housing?

10 A No.

11 Q This is from Exhibit J-51. And you're welcome to look at
12 it in your binder, but it's page 3. Have you seen -- well,
13 first of all, let's be clear on what J-51 is. Is J-51 the 2018
14 annual report issued by Mississippi Home Corporation regarding
15 CHOICE?

16 A Yes.

17 Q So this Figure 3, does this show the number of individuals
18 housed with CHOICE by fiscal year?

19 A Yes.

20 Q Do you know if this data includes -- strike that. To your
21 knowledge, does that data include MUTEH clients?

22 A Yes.

23 Q So are there individuals who receive CHOICE housing who are
24 not MUTEH clients?

25 A Yes.

1 Q And so likewise, are there people housed in communities who
2 receive CHOICE vouchers who are not MUTEH clients?

3 A In the southern six counties of the state, yes.

4 Q Okay. So when -- so where people are housed with CHOICE
5 vouchers is broader than just the MUTEH population of clients?

6 A Yes.

7 Q All right. So this is page 10 from Exhibit J-51. Do you
8 see here where it says 46 communities with under four units?

9 A Uh-huh, yes.

10 Q What is your understanding of what that means?

11 A That there are only -- there are under four units of CHOICE
12 housing in those communities.

13 Q And there are 46 such communities. Yes?

14 A Yes.

15 Q And those 46 communities are in addition to the other
16 cities listed on this page?

17 A Yes. That would be my understanding.

18 Q And do you happen to know what any of those communities
19 are?

20 A I would -- I could imagine some that we've housed in being
21 here or within the 46.

22 Q All right. I don't want you to imagine. Do you
23 specifically know?

24 A Not offhand, no.

25 Q All right.

1 MR. SHELSON: May I have a moment to confer, Your
2 Honor.

3 THE COURT: Yes, you may.

4 MR. SHELSON: Thank you, Your Honor.

5 (Short Pause)

6 MR. SHELSON: Your Honor, we have no further
7 questions. Thank you. Thank you, Mr. Parker.

8 THE COURT: All right. Any redirect of this witness?

9 MS. FOX: Just a few, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. FOX:

12 Q I won't make everyone wait while I adjust. You won't
13 believe that I'm the tallest of my sisters.

14 THE COURT: My goodness.

15 BY MS. FOX:

16 Q Just a few questions. Do the state -- do all the referrals
17 from the state hospitals come to MUTEH, or do some of them go
18 to Open Doors, the other provider?

19 A All state hospitals go to MUTEH from the state hospital.

20 Q You talked with Mr. Shelson about the amount of money that
21 MUTEH receives. Does that money include the actual subsidy,
22 the amount that goes toward the rent for those individuals?

23 A Yes.

24 Q And do the individuals in the program make any contribution
25 toward their own rent as well?

1 A They're required to pay 15 percent of their income towards
2 rent, but very few of our clients have income at program entry.

3 Q Do more have income by the end of the program?

4 A Some, yes.

5 Q Mr. Shelson asked you about the term "scattered site" and
6 whether that is the same thing as permanent supported housing.
7 Is scattered site a description of one's form of supported
8 house?

9 A Yes.

10 Q So they are not totally equal terms?

11 A No. It's a form of permanent supported housing.

12 Q Mr. Shelson also asked you about the increase in number of
13 people. He showed you that chart of the increase in number of
14 people served by the CHOICE program over time. Do you believe
15 that the CHOICE program could have been ramped up even faster
16 than it has been?

17 A Yes.

18 Q And I believe he asked if you were -- wanted to set -- to
19 get to the capacity of about 240 referrals a year. Is your
20 goal to reach 240 referrals a year or for everyone who needs
21 CHOICE to be referred to the program?

22 A Everyone that needs CHOICE to be referred to the program.

23 MS. FOX: No further questions.

24 THE COURT: All right. Is this witness finally
25 excused?

1 MS. FOX: Yes, Your Honor.

2 THE COURT: All right. Mr. Parker, you may step down.
3 I assume this concludes the testimony for today.

4 Ladies and gentlemen, thank you so much for
5 accommodating the court on my schedule today and on Friday and
6 even on Thursday. We might have to do that again at some
7 point -- well, we know we will on the 21st -- 20th, 21st,
8 something like that. But other than that, unless there's
9 anything we need to take up this afternoon -- I don't think
10 there is.

11 MS. RUSH: Nothing from the United States, Your Honor.

12 MR. SHELSON: Nothing from the State, Your Honor.

13 THE COURT: All right. Well, we'll see each other,
14 then, tomorrow morning at 9 a.m. Thank you so much. Court is
15 adjourned.

16 (Recess)

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CERTIFICATE OF REPORTER

I, CHERIE GALLASPY BOND, Official Court Reporter, United States District Court, Southern District of Mississippi, do hereby certify that the above and foregoing pages contain a full, true and correct transcript of the proceedings had in the aforementioned case at the time and place indicated, which proceedings were recorded by me to the best of my skill and ability.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

This the 10th day of June, 2019.

s/ *Cherie G. Bond*
Cherie G. Bond
Court Reporter